

# MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

## DIVISION OF CREDIT UNIONS

### NEWSLETTER

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#### THE VALUE OF DUAL CHARTERING

The first state credit union act, the *Massachusetts Credit Union Act*, became law in 1909. The Massachusetts law has served as a basis for subsequent state credit union laws and the Federal Credit Union Act. The choice between a federal and state charter for credit unions became an option with the passage of the Federal Credit Union Act in 1934. The ability of a credit union to be chartered by a state or the federal government is referred to as the 'dual chartering' system. Currently nation wide more than 40% of credit unions are state chartered including the smallest many of the largest. There is no pattern to which charter is dominant as in some states almost all credit unions are state chartered and in others all are federal. Two states do not even have state credit union statutes and thus do not charter credit unions. Most credit unions have either a state or federal charter because that is how they were originally organized.

The value of dual chartering is more than having the option to switch from one to the other particularly when most credit unions have never changed charter. But the fact that there is a choice is the basis for several advantages.

One of the most beneficial aspects of the dual chartering system is the innovativeness that results from having more than one regulator. By having several state as well as the federal regulator, new and different ideas of regulation are constantly being advanced. Historically the powers of credit unions did not increase uniformly but more as a gradual adoption as ideas were tried and tested. Share draft or checking accounts and the formation of corporate credit unions are examples of innovations originated by state chartered credit unions. Because many of these ideas incubated from the states it is obvious local needs and governmental responsiveness played a key role.

Credit unions play a substantial role in what laws are enacted. This can be seen on a federal level and here in Missouri with some recent law changes. Access and influence to the legislative process mean a great deal and depending on the issue, these factors are affected more or less by whether it is a state or federal government that is involved. The Missouri Credit Union Association's recent decision to have an office in the state capital should enhance state credit unions access and influence with

lawmakers. Although constituents influence both federal and state governments, clearly states provide greater returns to efforts advanced on behalf of local interests.

Although state and federal charters do not compete, the presence of one directly affects the responsiveness and provides a check and balance on the other. This is very good for credit unions because it re-enforces the differences between charters and gives the choice of charters real meaning.

As stated earlier, most credit unions maintain there charter status with the originating government and while this status is long standing; threats to the dual chartering system arise regularly. These threats can be from one government diminishing the value of the other charter by pre-emption or structure, one charter being overly advantageous or disadvantageous, critical mass of credit unions to support regulatory structure and many others. It is important that everyone be constantly mindful of preserving the dual charter system.

When a credit union considers the relative value of the charter, many factors should be considered in addition to those listed above. First any decision that is made should be mostly dictated by what is best for the members of the credit union and the long-term advantages. Relative value of a state or federal charter never remains constant with one or the other being enhanced or diminished regularly. A contemplated change such as this is not without its cost mostly in the form of what is being lost versus gained.

In conclusion the dual chartering system provides clear advantages to credit unions and their ability to serve their members. The dual chartering system is worth preserving and defending. The decision on chartering choices includes many obvious and not so obvious considerations all of which must be carefully weighed and measured.

*For additional information on Missouri chartered credit unions go to the Division of Credit Union's home page at <http://www.ecodev.state.mo.us/cu/>*

#### FIELD OF MEMBERSHIP UP DATE

**Springfield Telephone Employees Credit Union** (now **Telcomm Credit Union**) submitted an application to

include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court.

On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division of the court was granted and the case was referred to Judge Byron Kinder, Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs were due June 3, 2002 with the respondent's briefs due July 3, 2002. A hearing by the Western Appellate Court was held on October 3, 2002 in Kansas City. On January 14, 2003, the Appellate Court upheld the decision of Cole County Circuit Court. On January 14, 2003, the MBA and CBO filed motions for a rehearing and transfer to the Missouri Supreme Court. The Appellate Court on March 4, 2003 denied the motions. On April 23, 2003, the Missouri Supreme Court issued an order transferring the case to their jurisdiction. On December 9, 2003 the Court reversed the decision of the lower courts and remanded the case. The opinion can be read at <http://www.osca.state.mo.us/Courts/PubOpinions.nsf/0f87ea4ac0ad4c0186256405005d3b8e/d1c9a3590b16be4286256df6006dbc43?OpenDocument>. A status hearing has been scheduled for March 22, 2004 in Cole County Circuit Court.

**South Community Credit Union** submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the

MBA and two local banks located in each of the two applicants' field of membership expansion areas filed appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001, the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401. A status hearing has been scheduled for March 22, 2004 in Cole County Circuit Court.

**Vantage Credit Union** (formerly **Educational Employees Credit Union**) submitted an application for those who live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of standing. On July 18, 2002 the MBA and the two banks filed a Petition in Mandamus in Cole County Circuit Court. An order by Cole County District Court staying the case was entered on December 2, 2002. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 02CV324797. A status hearing has been scheduled for March 22, 2004 in Cole County Circuit Court.

**City Utilities Credit Union** submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On August 8, 2002 the Commission heard and denied the appeal for lack of standing. The decision was released on December 9, 2002. On January 2, 2003, MBA and the local bank filed a Petition in Mandamus in Cole County Circuit Court. The case can be followed on the internet at

<http://casenet.osca.state.mo.us/casenet/>; case number 03CV323001. A status hearing has been scheduled for March 22, 2004 in Cole County Circuit Court.

**First Community Credit Union** submitted an application for individuals who reside or work in the counties of Lincoln, Warren, Franklin, Washington, St. Francois, Ste. Genevieve, Pike, Montgomery, Gasconade and Crawford in the state of Missouri and the City of St. Louis. The application was published in the August 1, 2002 Missouri Register. The Director approved the application and his decision was published in the September 16, 2002 Missouri Register. On September 26, 2002 the MBA and a local bank located within the field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

**Alliance Credit Union** submitted an application for those who work or reside in St. Charles County or St. Louis County. The application was published in the November 15, 2002 Missouri Register. The Director approved the application and his decision was published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Allegiant Bank filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

**St. Louis Postal Credit Union** submitted an application for those who live or work in the Zip Codes 63005, 63017, 63042, 63043, 63044, 63126, 63127 and St. Charles County. The application was published in the December 2, 2002 Missouri Register. The director approved the application and his decision was published in the January 16, 2003 Missouri Register. A fifteen calendar period for appeal must occur before the decision is final. On January 30, 2003, the MBA and Midwest Bank Centre filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

**United Community Credit Union**, an Illinois chartered credit union, submitted an application for those who live or work in the Missouri counties of Lewis, Ralls and Marion. The application was published in the January 2, 2003 Missouri Register. The director approved the application

and his decision was published in the February 18, 2003 Missouri Register. On March 4, 2003 the MBA and the Farmers and Merchants Bank and Trust Company filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

**Aerospace Community Credit Union** submitted an application for those who live or work in the remainder of St. Louis City, St. Louis County and St. Charles County that is not currently in the **Aerospace Community Credit Union's** field of membership and those who live or work in Lincoln County. The application was published in the May 1, 2003 Missouri Register. The director approved the application and his decision was published in the July 1, 2003 Missouri Register. On July 14, 2003 the MBA and the First National Bank of St. Louis filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs have been filed. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

**Sikeston Public Schools Credit Union** submitted an application for employees of Scott County R-V Public Schools in Zip Code 63801, their family members and organizations of such persons. The application will be published in the January 15, 2004 Missouri Register. The Director approved the application and his decision will be published in the March 15, 2004 Missouri Register. A fifteen calendar day period must occur before the decision is final.

**Edison Credit Union** submitted an application for active or retired employees of Tenneco Automotive, Yates Electric Co. Inc., Trailmobile Cash Register Sales, Martec Pharmaceutical, Inc., Martec Scientific, Inc., Carlson Systems, and Reliable Health Care. **Midwest United Credit Union** submitted an application for all eligible businesses, government entities, individuals and the immediate family of all eligible individuals who live or work in Platte County, Missouri. **Goetz Credit Union** submitted an application for those who live or work in Buchanan County, Missouri. The Director approved these applications and his decisions will be published in the April 1, 2004 Missouri Register. A fifteen calendar day period must occur before the decisions are final.

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**From the Director...**


**We are moving...**

The Division of Credit Unions physical address will be

changing effective March 26, 2004 to Harry S. Truman Building, 301 West High Street, Room 720A, Jefferson City, MO 65101. Our mailing address will remain the same at P.O. Box 1607, Jefferson City, MO 65102. Our telephone, fax and e-mail address will not change.

**Credit Union Commission meeting...**

The next meeting is scheduled for April 13, 2004 at 10:30 P.M. at the Runge Nature Center in Jefferson City, MO.

A handwritten signature in blue ink, reading "John P. Smith", followed by a vertical line.

**John P. Smith, Director**